

Before the Board of Zoning Adjustment, D. C.

Application No. 11509 of 5501 Connecticut Avenue Associates, pursuant to Section 8207.2 of the Zoning Regulations for a special exception to permit accessory passenger automobile parking for 5501 Connecticut Avenue, N. W. in the C-1 zone as provided by Section 3101.411 of the Regulations at the premises 3725 Livingston Street, N. W., in the R-1-B zone, known as lot 69 (part of), in Square 1868.

HEARING DATE: January 16, 1974

DECISION DATE: February 25, 1975

FINDINGS OF FACT:

1. The applicant proposes to establish on the subject property, a parking lot use of two tiers, one containing 8 spaces which are accessible via Livingston Street, N. W., and 9 spaces are accessible through an alley way existing from Morrison Street, N. W.

2. The applicant proposes to establish a two (2) tier parking facility on the subject property, consisting of seventeen (17) spaces to serve a principle use in the C-1 zone. Twenty-five (25) parking spaces are in existence for the principle use at 5501 Connecticut Avenue, N. W.

3. The Board finds that all procedures calculated to affect notice to persons affected by this application have been duly complied with to serve adequate notice.

4. The Board finds that this application is in the nature of a special exception, which permits the proposed use if approved by this Board, consistent with the condition and requirements of Section 3101.411 of the Zoning Regulations as follows:

3101.411 - Accessory passenger automobile parking spaces elsewhere than on the same lot or part thereof on which the main use is permitted, except for a one-family dwelling, provided that:

(a) Such parking spaces will be in an open area or in an underground garage no portion of which, except for access, extends above the level of the adjacent finished grade, provided in either case they are located in their entirety within 200 feet of the area to which they are accessory, and provided further that they are contiguous to or separated only by an alley from the use to which they are accessory. (63-22)

(b) All provisions of Article 74 regulating parking lots are complied with, except that the Board may in an appropriate case under paragraph 7404.3 modify or waive the conditions specified in paragraph 7404.2 where compliance therewith would serve no useful purpose.

(c) It is economically impracticable or unsafe to locate such parking spaces within the principal building or on the same lot on which such building or use is permitted because of:

- (i) Strip zoning or shallow zoning depth;
 - (ii) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on such lot;
 - (iii) Unusual topography, grades, shape, size or dimensions of the lot;
 - (iv) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets, or
 - (v) Traffic hazards caused by unusual street grades or other conditions.
- (d) Such parking spaces are so located and all facilities in relation thereto are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic or other objectionable conditions; and,
- (e) Before taking final action on an application for such use, the Board shall have submitted the application to the Director, Department of Highways and Traffic for review and report. (Apr. 20, 1959.)
5. The Board finds that the Zoning Regulations allow the filing of an application one year after the final decision in a case previously heard and decided upon the same or similar facts and relating to identical property, Section 5.6 of Board's Rules of Practice and Procedure.
6. The Department of Highways and Traffic submitted a report and recommendation to the record, as required, five days before public hearing. This report states no objection to the use of the subject property as a parking lot, however, it did state objection to the creation of two (2) levels of parking separated by retaining wall as proposed by applicant, with access through an alley way. This objection is based upon the increase of traffic which would result in the proposed use and safety and noise problems created thereby. The report also stated that the extensive maneuvering that would be required by vehicles to enter and leave these parking spaces could delay other vehicles and cause further congestion in the alley.
7. The applicant did not introduce into evidence facts, or present testimony which would carry its burden of proof to show that it is economically impracticable or unsafe to locate such parking spaces within the principle building or on the same lot, Section 3101.411 (c) & (D).

8. The applicant represented to the Board that the proposed accessory parking spaces are not actually necessary.

9. The Board finds that the principle use involved herein has the required number of parking spaces as prescribed by the Zoning Regulations.

10. Opposition was raised at public hearing of this application.

11. The Upper Connecticut Betterment Association, asserted that the proposed use would be objectionable because of increased traffic which would be through a small alley way abutting R-1-B residential homes. The association further testified that traffic routed through the alley way access to Morrison Street, N. W., would create a dangerous traffic condition because of children who live in the neighborhood and frequently cross this small alley access way.

12. The Board finds that Connecticut Avenue, which intersects with Morrison Street, N. W., operates at or near full capacity during peak hours of traffic.

13. The 2-story structure in which the principle use is located contains offices on the second floor, and a liquor store, audio stereo sales, a rug display and showroom, and, a record store on the 1st place.

14. The subject property is located in the C-1 zone, and the Board takes notice of the preamble to the Zoning Regulations at Article 51, Section 5101 of Zoning Regulations, which in part, designates the C-1 District to provide convenient retail and personal service establishment for day to day needs of a small tributary area, with a minimum impact upon surrounding residential development.

CONCLUSIONS OF LAW AND OPINION:

Based upon the above findings, and the record, the Board, in deciding this application of whether or not accessory parking should be permitted by special exception in the R-1-B zone for a principle use which is located on a strip of C-1 zoned property, is of the opinion that such a request should not be granted. The Board is of the opinion, that because the proposed parking spaces are in an amount above that required for the principle use herein, and that the proposed access to a portion of the proposed for parking must be from a small alley which abutts residential development,

that increased traffic would create an objectionable condition by reason of noise, and a dangerous traffic condition, thereby having an adverse affect on the use of neighboring property.


The Board concludes that the applicant has not carried the burden of proving his case by showing that the proposed use would not be objectionable, and that because substantial testimony under oath of records conflicts with that condition in this special exception, this application, if granted, would not be in harmony with the general purpose or the intent of the Zoning Regulations which at 5101.1 state the C-1 District uses should not have a "minimal impact on surrounding residential developments."

ORDERED: That the above application be and is hereby DENIED.

VOTE: 5-0

BY ORDER OF D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY


JAMES E. MILLER,
Secretary to the Board

FINAL DATE OF ORDER; **APR 10 1975**

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HEARING DATE: January 16, 1974

DECISION DATE: February 25, 1975 & April 22, 1975

ORDER:

Upon consideration of the applicant's Motion for Rehearing, such motion fails for the lack of four (4) affirmative votes to reconsider.

BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By: James E. Miller
JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: APR 25 1975